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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,920	02/27/2004	Dmitry Noraev	018638-04-0156-01	8891

7590 09/11/2006
Daniel H. Golub
1701 Market Street
Philadelphia, PA 19103

EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3693

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,920	NORAEV ET AL.	
	Examiner	Art Unit	
	Lalita M. Hamilton	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination (RCE)

The RCE filed on June 20, 2006 has been processed. A new non-final rejection follows below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter.

Claims 14-33 are rejected under 35 U.S.C. 101.

In claims 14-29, it is unclear how the software is used to create the derivative instrument.

In claims 30-33, the financial instrument claimed does not fall under the guidelines of being concrete and tangible.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22-29 are rejected under 35 U.S.C. 102(e) as being anticipated by
Seaman.

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Seaman discloses a system and corresponding method of providing convertible securities comprising software stored on said system configured to create and manage an arrangement with an investor of an asset-linked convertible security having associated therewith an original conversion price for an asset linked to said asset-linked convertible security, and software stored on said system configured to create and manage a payment stream extending for a select period into the future, said arrangement comprising a reversible swap for said payment stream in exchange for a lower effective conversion price (p.2, 21-22. p.3, 24-31, and p.4, 44); asset is equity (p.2, 21-22. p.3, 24-31, and p.4, 44); security is a debt instrument (p.2, 21-22. p.3, 24-31, and p.4, 44); stream comprises coupon payments for said debt instrument (p.2, 21-22. p.3, 24-31, and p.4, 44); lower effective conversion price is accomplished by a callspread option on said equity (p.2, 21-22. p.3, 24-31, and p.4, 44); electronically receiving securities related data, based on said securities related data, electronically identifying a new issue, electronically receiving data related to said new issue, wherein said data related to said new issue comprises underlying equity data and dilution parameters, electronically calculating callspread terms based on said data related to said new issue, electronically calculating installment terms based on said data related to said new issue and said callspread terms, and electronically storing said callspread terms and installment terms (p.2, 21-22. p.3, 24-31, and p.4, 44); electronically retrieving stored callspread terms and prior environment parameters electronically receiving current environment parameters, electronically calculating hedge data based on said callspread terms and environment parameters, and electronically storing said

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hedge data (p.2, 21-22. p.3, 24-31, and p.4, 44); electronically adjusting said hedge data (p.2, 21-22. p.3, 24-31, and p.4, 44).

Allowable Subject Matter

Claims 14-21 and 30-33 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

Response to Arguments

Applicant's arguments with respect to claims 14-33 have been considered but are moot in view of the new ground(s) of rejection.

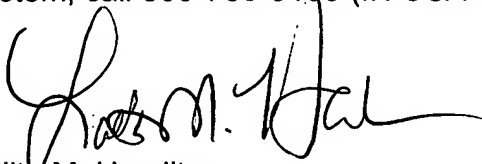
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Trammel James can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Lalita M. Hamilton', with a stylized flourish at the end.

Lalita M. Hamilton
Primary Examiner, 3693